

E-FILED 12/13/18

[case already closed]

IN THE UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION

**ENVIRONMENTAL DEFENSE
CENTER, *et al.*,**

Plaintiffs,

v.

**BUREAU OF OCEAN ENERGY
MANAGEMENT, *et al.*,**

Defendants.

**AMERICAN PETROLEUM
INSTITUTE, *et al.*,**

Intervenor-Defendants.

2:16-cv-08418-PSG-FFM

[PROPOSED] JUDGMENT

On November 5, 2018, this action came before the Court on the parties' cross-motions for summary judgment, the Honorable United States District Court Judge Phillip S. Gutierrez presiding. The action concerns a federal proposal to allow the use of well stimulation treatments in oil production on the Pacific Outer Continental Shelf off the coast of California. Plaintiffs State of California and California Coastal Commission (California Plaintiffs), Environmental Defense Center and

1 Santa Barbara Channelkeeper (EDC Plaintiffs), and Center for Biological Diversity
2 and Wishtoyo Foundation (CBD Plaintiffs) (collectively, Plaintiffs) asked the Court
3 to find that the Federal Defendants violated their statutory obligations under the
4 National Environmental Policy Act (NEPA), Endangered Species Act (ESA), and
5 the Coastal Zone Management Act (CZMA). Federal Defendants Bureau of Ocean
6 Energy Management (BOEM), Richard Yarde, David Fish, Walter Cruickshank,
7 Scott Angelle, Bureau of Safety and Environmental Enforcement (BSEE), Joan
8 Barminski, Mark Fesmire, United States Department of Interior, and Ryan Zinke,
9 Secretary of the Interior (collectively, the Federal Defendants), as well as
10 Intervenor Defendants American Petroleum Institute, DCOR LLC, and Exxon
11 Mobil Corporation (collectively, Intervenor-Defendants) asked the Court to uphold
12 the federal actions.

13 The Court considered all of the issues and rendered a decision on November 9,
14 2018 (Docket Number 126). The Court found that the Federal Defendants' action
15 constituted "major federal action" under NEPA, as well as an "agency action" that
16 triggered consultation under the ESA and a "federal agency activity" within the
17 meaning of the CZMA.

18 On November 27, 2018, the Court issued an Order approving the Joint
19 Stipulation to Continue Plaintiffs' Deadline to File Motions for Attorneys' Fees and
20 Costs submitted by the EDC Plaintiffs, CBD Plaintiffs, and the Federal Defendants.

21 For the reasons set forth in the Order dated November 9, 2018, the following
22 is HEREBY ORDERED AND ADJUDGED:

23 1. On the NEPA claims, the Court GRANTS Federal Defendants' and
24 Intervenor-Defendants' motions for summary judgment and DENIES Plaintiffs'
25 motions for summary judgment.

26 2. On the ESA claims, with regard to the claims based on the failure of the
27 agencies to consult with the United States Fish and Wildlife Service (FWS), the
28 Court GRANTS the EDC Plaintiffs' and CBD Plaintiffs' motions for summary

1 judgment and DENIES Federal Defendants' and Intervenor-Defendants' motions
2 for summary judgment on these claims. With regard to the claims based on the
3 failure of the agencies to consult with the United States National Marine Fisheries
4 Service, the Court finds that the claims are MOOT because this consultation has
5 been completed.

6 3. On the CZMA claims, the Court GRANTS the California Plaintiffs'
7 motion for summary judgment and DENIES Federal Defendants' and Intervenor-
8 Defendants' motions for summary judgment.

9 4. Plaintiffs are entitled to injunctive relief, and the Federal Defendants are
10 ORDERED to refrain from approving any plans or permits (*e.g.*, Development and
11 Production Plans, Applications for Permits to Drill, Applications for Permits to
12 Modify) for the use of well stimulation treatments on the Pacific Outer Continental
13 Shelf unless and until they (1) complete consultation with the FWS under the ESA,
14 and (2) complete the CZMA process under 16 U.S.C. § 1456(c)(1) for the proposed
15 action described in the Final Programmatic Environmental Assessment of the Use
16 of Well Stimulation Treatments on the Pacific Outer Continental Shelf dated May
17 2016.

18 The Clerk of Court is instructed to enter this judgment.
19

20
21 Dated: 12/13/18

PHILIP S. GUTIERREZ

The Honorable Philip S. Gutierrez
United States District Court Judge